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Final Technical Report
September 2008



CONGRESSIONALLY-DIRECT HOMELAND DEFENSE AND CIVIL SUPPORT THREAT INFORMATION COLLECTION

St. Mary's University of San Antonio

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The objective of this effort was to collect and analyze all applicable non-release statutory provisions associated with the "open government" laws of all 50 states since September 11, 2001, in order to create a full understanding that will not only inform the public as to the actions of the states in this regard but also to assist federal, state, and local government employees, to include policy makers, in better safeguarding critical infrastructure and information systems while complying with security policies that assure the fullest level of public access to information. In addition, the comprehensive study included a first ever compilation of the non-release provisions from four nations facing serious terrorism threats – Israel, Colombia, France, and the United Kingdom. The primary byproducts of the study consisted of two published books. Entitled: "State Open Government Law and Practice in a Post-9/11 World," the first and most significant of the two books is a complete state-by-state guide containing all non-release statutes of the 50 states as well as selected changes in national public information laws in Colombia, France, Israel, and the United Kingdom. The second book, "Selected Essays on State Open Government Law and Practice in a Post-9/11 World (2208)," details the opinions from leading subject matter experts on the information provided in the first book. All aspects of the study are available to public access in printed or electronic formats.

15. SUBJECT TERMS

Freedom Of Information Act (FOIA), , Open Government, critical infrastructure, public access of information, State Open Government Law and Practice in a Post 9/11 World, Terrorism, Cyber terrorism.

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TABLE OF CONTENTS

ACKNOWLEDGEMENTS.....	1
EXECUTIVE SUMMARY.....	2
TASKS AND TECHNICAL REQUIREMENTS PERFORMED.....	3
REPORTS AND DOCUMENTATION.....	4
CONCLUSIONS	5
APPENDICES (attachments)	
a) <u>Meetings and Presentation Table</u>	8
b) <u>About the Authors</u>	21
c) <u>State Open Government Law and Practice in a Post-9/11 World</u>	26
d) <u>Selected Essays on State Open Government Law and Practice in a Post-9/11 World</u>	27

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The Center for Terrorism Law also wishes to acknowledge the subject matter experts who conducted the actual research to write and present the white papers at the *State Open Government Law and Practice in a Post-9/11 World: Legal and Policy Analysis Symposium*, held at the National Press Club from 16-17 November 2007. The superior support of Steve Weintraub, President and Publisher of Lawyers and Judges Publishing Company, Inc., for his outstanding work in publishing the two main books associated with the study was critical.

Finally, the Center for Terrorism Law wishes to acknowledge the extensive support provided by the Reporters Committee for the Freedom of the Press.

EXECUTIVE SUMMARY

One of the primary purposes of this grant funded study was to compile the “open government” non-release laws of all 50 states, especially as amended after the terror attacks of September 11, 2001. In this context, the study produced a first of its kind informational guide of how states have attempted to safeguard certain high risk areas of interest, to include cyber information systems, while preserving open access to government information. The guide book, “State Open Government Law and Practice in a Post-9/11 World (2007),” catalogs this information and further outlines the statutory actions of the various states in terms of identified spheres of activity to include: (1) critical infrastructure, (2) cyber security, (3) first response, (4) political structure, (5) public health, and (6) terror investigations. Once the guide book was produced, the information was analyzed at a national conference of subject matter experts representing a wide variety of interested parties, to include the requestor community, in order to determine best practices in the balance between protecting the public from terror attacks while promoting government transparency. Attended by scores of subject matter experts and interested parties, to include three members of Congress, military, and government the national conference was held at the National Press Club, Washington, DC, from 16-17 November 2007. The conference focused on the policies and technologies needed to preserve civil liberties, open government, and security. In addition, the conference included analysis of the open government approaches of Israel, France, Colombia, and the United Kingdom. The international approach in this regard served as a frame of reference for future legislative initiatives in the area.

In the context of protecting information, materials, and documents associated with technical exercises and meetings where terrorism, cyberterrorism, critical infrastructure, and information assurance matters are discussed, the Center for Terrorism Law in conjunction with subject matter experts, engaged in a top-to-bottom research study of the gathered state non-release provisions in hopes of gleaning a common theme that might provide policy makers with the necessary materials needed to promote a more unified legislative effort across the 50 states. In the process, the overall study analyzed and determined how states and individuals responsible for safeguarding critical infrastructure and information systems have acted to preserve open access to government information, while protecting systems’ security. These findings were published in a second book entitled: “Selected Essays on State Open Government Law and Practice in a Post-9/11 World (2208).” This study and subsequent analysis assists in improving, for instance, Air Force capabilities to safeguard critical infrastructure and information systems by empowering individuals with the appropriate knowledge of specific state laws as the need arises to understand those restrictions associated with open access issues. To that extent, the study identified specific procedures that operational exercise and security planners must take in order to operate under the applicable state law. Additionally, the effort improved legal and operational understanding of how the states have acted to restrict the release of information regarding terrorism, cyberterrorism, and critical infrastructure. Understanding this development is essential for all those who deal with security concerns as well as those who desire access to said information.

The Center for Terrorism Law examined state antiterrorism and counterterrorism policy issues with particular emphasis on cyberterrorism, information assurance technologies, and infrastructure assurance. The Center worked with a variety of organizations - military, federal,

and civilian - dedicated to conducting detailed research and risk analysis regarding homeland security, which included the United States Air Force Air Intelligence Agency; the Air Force Research Laboratory; the Center for Infrastructure Assurance and Security; the Institute for the Protection of American Communities, University of Texas at San Antonio (UTSA); and the United States Northern Command's Homeland Security/Defense Education Consortium (HSDEC), and the Federal Bureau of Investigation. In the context of emerging threats to the nation, one of the Center's priority research topics is to assess the frequency and complexity of policies associated with cybersecurity and infrastructure assurance. Policies associated with how data is transmitted, processed, and compiled are an area that has seen immense growth since the terror attacks of 9/11. Accordingly, in order to effectively secure the cyber world and understand the balance between increased security and the goal of protecting the public's right to access information, a well-defined framework that encompasses multi-level policy and technology compliance is required from all sources to include state, federal, and international levels of involvement.

The government must maintain a delicate balance, particularly in wartime, between national security and the public's right to know. While the government should never unnecessarily restrict American citizens' access to information about their government, the threat of future terror attacks mandates that increased security concerns must be addressed at the state level – state governments are the “first responders.” Nevertheless, national security should not be used as an excuse to improperly restrict public access to information. The American system of government is based on the fundamental right to know. As states enact laws and policies limiting access to certain information associated with public safety, e.g., cybersecurity, infrastructure protection, and information assurance, these diverse non-release laws and policies increase the number and complexity of procedures that employees must follow - sometimes with the unintended consequence of limiting public access to government data. In part, this study was also intended to assure public access to government information and records through identification of the actual laws and procedures designed to improve an employee's ability to screen information against security policies without inadvertently limiting public access by, for example, “over-classifying” information.

This research was conducted in an impartial, academic setting, insulated from government and special interest group pressure.

TASKS/TECHNICAL REQUIREMENTS PERFORMED

The Center for Terrorism Law led the effort to compile and assess the non-release statutes for the “open government” laws of all 50 states, especially as amended after “9/11,” to determine how states and individuals responsible for safeguarding critical infrastructure and information systems have acted to preserve open access to government information, while protecting public safety. Particular concern was placed on the threat of cyberterrorism and its impact on the development of non-release provisions.

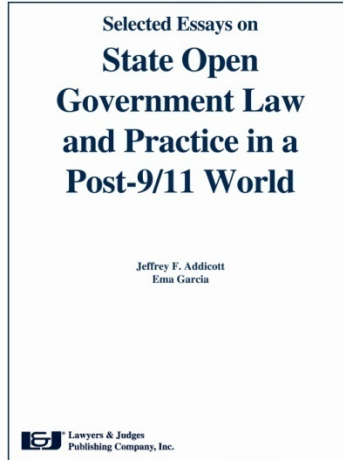
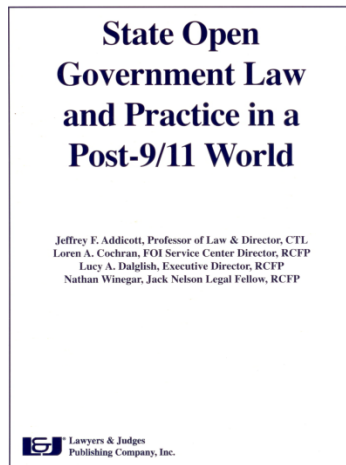
The Center for Terrorism Law produced a frame of reference for those engaged in sharing information and provided a systematic approach to identify applicable laws and policies associated with public safety concerns to include terrorism and cyberterrorism. The Center identified and gathered a wide range of subject matter experts to include industry professionals and the requestor community to evaluate the non-release provisions and then published that analysis in a detailed book.

REPORTS AND DOCUMENTATION

The Center for Terrorism Law determined the status of the effort and reported progress towards accomplishment of contract requirements. Two extensive reference books were published as a result of this study. The publisher for each book was Lawyers and Judges Publishing Company, Tucson, Arizona. The primary editors and writers are listed at Appendix B. The main book produced by the study, “State Open Government Law and Practice in a Post-9/11 World (2007),” contains two parts (Appendix C). Part One of this book is a detailed compilation of all of the statutory non-release provisions of the 50 states enacted since September 11, 2001. The legal guide book is cross referenced by six categories of interest – (1) critical infrastructure, (2) cyber security, (3) first response, (4) political structure, (5) public health, and (6) terror investigations. Much of the hard research was conducted in conjunction with the Reporters Committee for the Freedom of the Press, a non-profit interest group. The “State Open Government Law and Practice in a Post-9/11 World (2007)” provides a first ever reference guide that captures the new non-release laws enacted by individual states and then breaks those laws down into easily accessible categories of interest. The result is an invaluable tool for both policy makers and others in the goal of better developing a proper balance between increased security and open government. In addition, the guide provides a clear and precise examination of the associated non-release provisions for any particular state. This information is vital to individuals who are tasked with understanding the legal parameters associated with terrorism at the state level. Part Two of the book was largely prepared by the Center for Terrorism Law and contains a survey of the national open government laws from a select group of nations that face similar terror threats as the United States. The related laws of Colombia, France, Israel, and the United Kingdom are set out. In this context, policy makers and others are provided with a valuable source of information from which they can compare and contrast in revising American approaches. The second reference book is at Appendix D: “Selected Essays on State Open Government Law and Practice in a Post-9/11 World (2008),” is a compilation of essays that serves as a companion guide to the first book. The “Selected Essays on State Open Government Law and Practice in a Post-9/11 World (2008),” compilation is organized into chapters that mirror the six listed subdivisions in the “State Open Government Law and Practice in a Post-9/11 World (2007).” The essays consist of detailed white papers written by subject matter experts who participated in the *State Open Government Law and Practice in a Post-9/11 World : Legal and Policy Analysis Symposium* held at the National Press Club, Washington, DC, on November 15-16, 2007. The book is divided into seven chapters and contains the work of 17 separate subject matter expert contributors. The contributors provide expert opinions on a wide variety of issues associated with the actions of the states in the context of enacting non-release provisions. The book covers areas of concern including critical infrastructure, public health, cyber security, political structure, terror investigations, and international approaches. Both of the published books can be obtained free of charge in hard copy or electronically: “State Open Government Law and Practice in a Post-9/11 World (2007)”

is at: (<http://www.stmarytx.edu/ctl/content/resources/State%20Open%20Govt%20PDF.pdf>).

“Selected Essays on State Open Government Law and Practice in a Post-9/11 World (2008)” is at: (<http://www.stmarytx.edu/ctl/content/publications/SelectedEssays.pdf>). Again, both publications are available on the Center for Terrorism Law’s website: www.stmarytx.edu/ctl.



The Center for Terrorism Law documented technical work accomplished and information gained during the performance of this acquisition to include all pertinent observations, nature of problems, positive and negative results, and design criteria established where applicable. Staff at the Center for Terrorism Law drafted and recorded procedures followed, processes developed, “Lessons Learned,” etc. Additionally, the Center for Terrorism Law documented the details of all technical work to permit a full understanding of the applicable impact of each state’s non-release provisions.

The Center for Terrorism Law conducted oral presentations and mini workshops culminating in the national conference held at the National Press Club, Washington, D.C. in November 2007. The Center for Terrorism Law developed and hosted this national conference to address the issues and raise awareness to government agencies and the public. Conference discussions were valuable in identifying for interested parties the complex maze of state approaches to the issue of developing non-release provisions. This information improves Air Force capabilities to deal with state laws when faced with planning joint efforts with state officials as well as fielding open access issues from the public. The Center for Terrorism Law provided status of technical progress during presentations as required in the grant.

CONCLUSIONS

With bipartisan Congressional backing this study was added to the 2006 Defense appropriations bill in order to study the legislative actions taken by the 50 states in regards to adopting non-release provisions to state open government laws in the wake of the terror attacks of September 11, 2001. Ironically, several initial published news accounts erroneously misstated the purpose of the proposed study. For example, USA Today claimed that the study was “aimed at rolling back the amount of sensitive data available to the press and public through freedom of information

requests.” In fact, the study was designed to perform the exact opposite - the goal of the study was to reveal what the states have unilaterally done to their open government laws so to provide policy makers and members of the public with full disclosure. Indeed, the research produced by the Center for Terrorism Law did nothing except ensure that the free flow of information is open and should not be unnecessarily hindered by security-driven laws approved by states to their open government laws after Sept. 11, 2001. The study did not affect the federal Freedom of Information Act (FOIA) in any way. The study revealed for the first time, the extent to which states have responded to the basic theme of the free flow of information since the increased terror threats brought on by the “War on Terror.”

Since the goal of the study was to compile and analyze these state laws, the study revealed that 47 states have enacted - in varying degrees - laws limiting access to certain open government information in the name of public safety concerns. Many of these non-release statutes are in the area of cyber security. While these state laws are well intentioned, the Center for Terrorism Law not only cataloged the specific non-release statutes, but identified and recruited top subject matter experts to comment on the unintended consequence of unnecessarily limiting public access to government data.

Conducted in an impartial, academic setting, insulated from government and interest group pressure, the Center for Terrorism Law affirmed that the individual states have enacted non-release provisions to their open government laws without any central coordination. This study has revealed the different approaches which vary markedly from state to state and provided a working frame of reference for affected policy makers to develop a model state statute which can discard those provisions that are overbroad and excessively restrictive.

The national conference held in Washington, DC, from 16-17 November 2007 convened to examine the findings. The resulting examination of strengths and weaknesses of various laws provided the clearest picture to date of the efforts of the various states. While the attendees and other subject matter experts were not able to produce a “model” state law that incorporated provisions that best protect public safety while facilitating the maximum flow of information to the press and public, the many white papers on this topic were collected and published.

In the words of Senator John Cornyn, who supported the appropriation, “these are the stated goals of the St. Mary’s researchers. They also represent the intentions of those of us in Congress who approved this grant. I’m convinced this project will provide us with valuable analysis on whether current laws are serving us well, or are instead undermining our bedrock open-government principles.”

The study provides the best guide of the current state non-release provisions in existence. This will no doubt provide a valuable tool for any military or government official that requires immediate access to the non-release rules of any particular state. This information is in print and electronic format.

Finally, the study also examined the open government laws of four nations that face increased terror threats – Israel, France, Colombia, and the United Kingdom. The purpose was to provide an additional frame of reference for policy makers to examine in making adjustments to American law. In addition, this information is a valuable tool for understanding the issues from an international perspective.

MEETINGS AND PRESENTATIONS

Appendix A

The complete list of meetings (to include workshops) is set out at Appendix A. A short synopsis of the purpose of each individual event is set out. In summary, a total of 38 significant meetings were conducted over the course of the study. Meetings 1, 2, 6, and 10 were developmental meetings designed to identify the overall strategy and approach to the study. Meetings 3, 5, 7, 8, 9, 11, 12, 22, 30, and 36 were used to identify the appropriate scores of American subject matter experts that participated in providing research and input into the publications. Meetings 14, 15, 20, 23, and 26 were used to develop the various functional areas of research to include: (1) critical infrastructure, (2) cyber security, (3) first response, (4) political structure, (5) public health, and (6) terror investigations. Meetings 16, 17, 18, 24, 27, 28, 31, 33, 34, 37, and 38 were used to develop and support either logistical issues associated with the national conference held in November 2007 or matters related to production of the work products. Meetings 4, 13, 19, 21, 25, 29, 32, and 35 were used to identify and work with international sources and experts for the study's input on international approaches to non-release provisions.

1. Meeting Name: Cyberterrorism Working Consultant Conference (Pre-award)

Purpose: To bring to together the leading experts that work for the Center for Terrorism Law to discuss the "way ahead" regarding pending cyber grant to study State FOIA non-release provisions related to cyberterrorism issues

Start/End Dates: 8-10 July 2006

Location: Eden Roc Hotel, Miami, Florida (we chose the Eden Roc because it was the most cost effective as the Center for Terrorism Law had a room credit from a previous NarcoTerrorism conference held by the Center for Terrorism Law in December 2005 at the same location)

Attendees: Jeffrey Addicott, Todd Hillis, John Suprynowicz, Mike Pearlman, Alfred Valenzuela, Ken Bowra, Kelly Culpepper, Selene Alsip, Yelena Seletskaya, Jason Hurt, Jenel Hall, Shane Gallino, Lori Valenzuela, Elene Garcia, Ed Block, Kelly Culpepper, Surita Davis, David Irwin, R.C. Mosier, Sonja Sims, Cylde Joseph, John Heller, Mia Burnette (secretary)

Presentations Made: Addicott - Overview of Grant requirements; Cyberterrorism Workshops; How to Write Point Papers; Hillis - Vulnerability Management; Bowra - Special Forces Doctrine and Cyberterrorism; Suprynowicz - Overview of Cyberterrorism Issues as Related to Iraq War; Pearlman - Cyberterrorism Threats and Techniques; Valenzuela - Infrastructure Support Issues

2. Meeting Name: Dedication of Center for Terrorism Law (Pre-award)
- Purpose: To dedicate the newly established Center for Terrorism Law and to discuss with subject matter experts the central grant to study State non-release provisions
- Start/End Dates: 22 August 2006
- Location: Center for Terrorism Law, St. Mary's University School of Law, San Antonio, Texas
- Attendees: Jeffrey Addicott, Congressman Mike McCaul, Wayne Christian and over 60 invited attorneys with interest in subject research issues
- Presentations Made: Cyberterrorism and Restrictions on Freedom of Information
3. Meeting Name: Information Exchange between Jeffrey Addicott and President Bush, Vice President Cheney and White House Staff
- Purpose: To provide information to Bush Administration on goal and purpose of Center regarding the FOIA study
- Start/End Dates: 27-28 October 2006
- Location: Kiawah Island, S.C., Kiawah Island Resort
- Attendees: Jeffrey Addicott, G.W. Bush, Carl Rowe, Dick Cheney, staff members
- Presentations Made: No formal presentations; engaged in discussions
4. Meeting Name: Cyberterrorism and Freedom of Information
- Purpose: To provide information to Mexican law school on US laws regarding subject grant and to ascertain Mexican approach to same FOIA related issues in Mexican law
- 10-12 October 2006
- Start/End Dates:
- Location: University of Guadalajara at Ocotlan, Mexico
- Attendees: Jeffrey Addicott, Roberto Rosas, Humberto Sarkis, Alfred Valenzuela
- Presentations Made: Addicott – Cyberterrorism and Freedom of Information Act Issues

5. Meeting Name: Freedom of Information Issues from State Non-release laws
- Purpose: To meet with lawyers and subject matter experts on the subject grant requirements. To provide information to senior law enforcement agents at FBI Academy on cyberterrorism issues and FOIA
- Start/End Dates: 17–20 November 2006
- Location: Law offices of Meyer, Klipper & Mohr, 923 15th Street NW, Washington DC and FBI Academy, Quantico, Virginia
- Attendees: Jeffrey Addicott, Mike Stripling, Ken Bowra, Steve Emmert, Chris Moore, Andy Bringel, Bernd Debusmann
- Presentations Made: N/A
6. Meeting Name: Information Exchange and Meetings with Various Subject Matter Experts
- Purpose: To discuss with subject matter experts the grant project and to determine location of conference site and facility use
- Start/End Dates: 5–7 December 2006
- Location: Washington, D.C.
- Attendees: Rebecca Carr, Senator John Cornyn's staff, Senator John McCain [at reception at the Jewish Institute for National Security (JINSA, POC was Yola Habif Johnston)], Lucy Dalglish, Reporters Committee for the Freedom of the Press (RCFP), officials from George Mason's Critical Infrastructure Protection Program (David Jackson), and 8 attorneys from Lexis Nexus at their office in Downtown DC.
- Presentations Made: No formal presentation; spoke on the structure and plan for State FOIA conference
7. Meeting Name: Consultant Meeting and Speech at Alabama National Guard Legal Conference on Cyberterrorism Issues
- Purpose: To provide information to lawyers associated with cyberterrorism in the context of FOIA laws in Alabama
- Start/End Dates: 5-7 January 2007
- Location: Birmingham, AL and Montgomery AL (G Wallace National Guard Armory)

- Attendees: Jeff Addicott, Mike Stripling, Bryan Morgan, David Arnold, and thirty-five attorneys
- Presentations Made: Addicott spoke on Cyberterrorism and Freedom of Information Act Issues
8. Meeting Name: Meeting with Directors of the Combating Terrorism Center
- Purpose: To gain input from major think tank on open government issues
- Start/End Dates: 21–22 January 2007
- Location: United States Military Academy, West Point, NY
- Attendees: Jeffrey Addicott, Mike Stripling, Kevin Govern, Joe Felter, and Jarrett Brachman
- Presentations Made: No formal presentations; engaged in discussions
9. Meeting Name: National Black Law Students Association Rocky Mountain Region Legal Conference
- Purpose: To meet with lawyers and subject matter experts to discuss emerging cyberterrorism threats and responses by State's focused on the subject grant requirements
- Start/End Dates: 25-26 January 2007
- Location: Tulsa, OK
- Attendees: Jeff Addicott, Alfred Valenzuela, and twenty law students and lawyers in the field
- Presentations Made: Addicott spoke on Cyberterrorism and FOIA
10. Meeting Name: Consultant Meeting
- Purpose: Met with Department of Homeland Security senior lawyer, Wayne Price, to gain permission from DHS to hire him as a consultant in the State FOIA Study (would be paid with Center's gift account funds to avoid conflict of interest). Mr. Price provided pro bono advice on formatting the study but was never hired as a consultant.
- Start/End Dates: 9–11 Feb 2007
- Location: Las Vegas, NV
- Attendees: Jeffrey Addicott and Wayne Price
- Presentations Made: N/A

11. Meeting Name: FBI Speech on Cyberterrorism and FOIA
- Purpose: To discuss with senior FBI officials the subject grant program in the context of law enforcement concerns
- Start/End Dates: 19–20 Feb 2007
- Location: FBI Academy, Quantico, VA
- Attendees: Jeffrey Addicott, Andy Bringuel and 20 senior FBI agents
- Presentations Made: Addicott spoke on Cyberterrorism Threats and engaged in non-formal discussions
12. Meeting Name: NDIA Special Forces Conference
- Purpose: To discuss with senior government officials the subject grant program in the context of national defense concerns
- Start/End Dates: 24–28 Feb 2007
- Location: Washington, D.C.
- Attendees: Wayne Christian (Center for Terrorism Law consultant)
- Presentations Made: No formal presentations made; engaged in discussions with subject matter experts
13. Meeting Name: Discussions with Senior French Terrorism Experts at University of Sorbonne and Rouen
- Purpose: To discuss with senior French academic subject matter experts the State FOIA grant project and ascertain how the process works in France in the context of open government law and practice. To enlist a French subject matter expert to come to the November conference and present the French approach to Open Government and the impact on terrorism. This was accomplished. Professor Vanessa Brochot provided French legal provisions and attended the November 2007 conference.
- Start/End Dates: 25 Feb–1Mar 2007
- Location: Rouen and Paris, France
- Attendees: Jeffrey Addicott, Vice President Philippe Guillot, Professor Charlotte Girard, Professor Philippe Lagrange, Vanessa Brochot (Director of the Terrorism Center at Rouen, and Professor Marie Hernandez
- Presentations Made: Addicott spoke on Open Government Laws and Practice in the US and engaged in non-formal discussions

14. Meeting Name: Freedom of Information Foundation of Texas (FIFT)
Purpose: Professor Addicott spoke to leading subject matter experts at an annual meeting of the FIFT to discuss the grant project and seek support and participation
Start/End Dates: 1–2 March 2007
Location: FIFT, Dallas, TX
Attendees: Jeffrey Addicott, Executive Director of FIFT Katherine L. Garner, and 20 members of FIFT
Presentations Made: Addicott spoke on the subject State FOIA grant project and then engaged in discussions concerning the subject grant project
15. Meeting Name: Association of the US Army Conference
Purpose: To locate and discuss grant issues with subject matter experts
Start/End Dates: 7 March 2007
Location: Camp Mabry, Austin, TX
Attendees: Latell Bellard and thirty retired military and government attorneys
Presentations Made: Addicott spoke on State Open Government Law and Practice, and engaged in private discussions to establish roster of contacts
16. Meeting Name: Consultant Meeting
Purpose: To discuss with consultant Tony Booth the mechanics for November 2007 subject matter expert conference and media response.
Start/End Dates: 23–24 March 2007
Location: Marriott Hotel, Richmond, VA
Attendees: Mr. Tony Booth
Presentations Made: No formal presentation; spoke on the structure planning for conference
17. Meeting Name: Consultant Meeting
Purpose: To meet other subject matter experts and plan sessions for November conference to be held in DC.

Start/End Dates: 2–5 April 2007

Location: Center for Terrorism Law, San Antonio, TX

Attendees: Jeffrey Addicott, Mike Stripling, John Supernovich, and Wayne Christian

Presentations Made: No formal presentations; engaged in discussions

18. Meeting Name: Meeting with Various Subject Matters Experts

Purpose: To gain input from experts on the grant project regarding structure and plan of operation for November conference.

Start/End Dates: 23–25 April 2007

Location: Mayflower Hotel lobby and Naval Bethesda Hospital, Washington, DC

Attendees: Jeffrey Addicott, Jody Westby, Ron Klink, William Bilado, Rob Darling, and Randy Culpepper

Presentations Made: No formal presentations; engaged in discussions

19. Meeting Name: Consult with Counsel General of Israel for Southwest US

Purpose: To meet with Asher Varden to discuss Israel open government issues and non-release laws in Israel

Start/End Dates: 4–6 May 2007

Location: Marriott conference room, Houston, TX

Attendees: Jeffrey Addicott, and Asher Varden

Presentations Made: No formal presentations; engaged in discussions

20. Meeting Name: Partnership Meeting

Purpose: To meet with project partner the Reporters Committee for Freedom of the Press (RCFP) and Senator John Cornyn

Start/End Dates: 9–11 May 2007

Location: RCFP office, Army National Guard Armory, Washington, DC

Attendees: Jeff Addicott, Loren Cochran, Lucy Dalglish, Ron Klink, Audrey Hudson, and Senator John Cornyn

Presentations Made: No formal presentations; engaged in discussions

21. Meeting Name: Partnership Meetings in England
- Purpose: To discuss the November conference and UK input to the white paper and book with the Director of the Centre for the Study of Terrorism and Political Violence at University of St. Andrews. Input was obtained for inclusion in the main text.
- Start/End Dates: 14–17 May 2007
- Location: University of St. Andrews, Scotland
- Attendees: Jeffrey Addicott, Professor Alex Schmid, Professor Paul Wilkinson and Adam Jessel
- Presentations Made: No formal presentations; engaged in discussions
22. Meeting Name: FBI Speech on Cyberterrorism and FOIA
- Purpose: To discuss with senior FBI officials the subject grant program in the context of law enforcement concerns
- Start/End Dates: 20–21 May 2007
- Location: FBI Academy, Quantico, VA
- Attendees: Jeffrey Addicott, Andy Bringuel and 20 senior FBI agents
- Presentations Made: Cyberterrorism threats and informal discussions
23. Meeting Name: Port Security Meeting
- Purpose: To discuss with senior leaders at the Center for Stimulation, Training, Assessment and Research (STAR) concerns regarding non-release provisions of port and maritime security issues.
- Start/End Dates: 31 May–2 June 2007
- Location: STAR Center Building, Dania, FL
- Attendees: Jeffrey Addicott, Erich Ferrari, Steven Nickerson, Philip Shullo and STAR staff
- Presentations Made: Terrorism Threats

24. Meeting Name: Meeting with Publishing Company (Lawyers and Judges Publishing Co.)
- Purpose: To discuss with the Chief of publishing company, Lawyers and Judges, the publication of the subject book containing State Open Government non-release provisions and foreign nation input.
- Start/End Dates: 4–6 June 2007
- Location: Center for Terrorism Law, San Antonio, TX
- Attendees: Jeffrey Addicott and Steve Weintraub
- Presentations Made: N/A
25. Meeting Name: Prosecuting and Investigating Terrorism Conference
- Purpose: To discuss law enforcement concerns with 200 plus federal, state, and local law and military police. To discuss Israeli input to our subject book
- Start/End Dates: 12–16 June 2007
- Location: Houston, TX and Louisiana State University, New Orleans, LA
- Attendees: Asher Yardin (Houston) and 200 plus officials (New Orleans)
- Presentations Made: Legal Issues in Terrorism Investigations
26. Meeting Name: Meeting with Critical Infrastructure Protection Program, George Mason Law School
- Purpose: Professor Addicott sent Center for Terrorism Law consultant, Maggie Hammett to meet with subject matter experts at the Critical Infrastructure Protection Program to be briefed on the progress of white papers for the November 2007 conference
- Start/End Dates: 21–25 June 2007
- Location: George Mason Law School, Washington, DC
- Attendees: Maggie Hammett, Maeve Dion and staff at George Mason Law School
- Presentations Made: N/A
27. Meeting Name: Meetings with Staff and Members of Congress
- Purpose: To discuss with various members of Congress and their staff the subject matter expert conference in November. Meetings

included: Senator Hutchinson, Representatives Gonzalez, Cuellar, Nadler, Reyes, Smith, McCaul, and the staff members of these individuals as well as the staff of Senator Cornyn's office and Representative Jackson-Lee

Start/End Dates: 10–12 July 2007

Location: Congress, Washington, D.C.

Attendees: Jeffrey Addicott, Fred Valenzuela and individuals above

Presentations Made: No formal presentation; spoke on the structure planning for conference and the agenda items

28. Meeting Name: Meeting with AFRL contact, Bill Gregory

Purpose: To discuss grant process

Start/End Dates: 26 July 2007

Location: Center for Terrorism Law, St. Mary's University School of Law, San Antonio, TX

Attendees: Jeffrey Addicott, Faithe Campbell, Ema Garcia and Bill Gregory

Presentations Made: N/A

29. Meeting Name: International Partnership Meetings in Colombia

Purpose: To meet and discuss open government issues with Colombian law school subject matter experts and confirm their input for November conference to be held in D.C. Input was collected and included in the main study.

Start/End Dates: 29 July–August 1 2007

Location: Law Schools in Barranquilla and Caragena, Colombia

Attendees: Jeffrey Addicott, Mike Stripling, Fred Valenzuela, Selene Alsip and Alexandra Garcia, Universidad Del Norte (UDN) Law School, Carmen de Pena, (UDN), German Arturo Sierra Anaya, Universidad De Cartagena (UDC) Law School, Dean Josefina Quintero Lyons, UDC Law School

Presentations Made: Met with Colombian subject matter experts and Addicott, Stripling and Valenzuela spoke on cyber issues, infrastructure security and plan for US open government study

30. Meeting Name: Border Security Conference in El Paso, TX
Purpose: To gain input from wide variety of subject matter experts on the grant project regarding structure and plan of operation for November conference
Start/End Dates: 13–14 August 2007
Location: University of Texas at El Paso (UTEP), TX
Attendees: Jeffrey Addicott and Alfred Valenzuela
Presentations Made: No formal presentations; engaged in discussions
31. Meeting Name: Meetings with Senator Cornyn and Staff. Consultant meetings
Purpose: Part I of trip: to meet with invited speaker, Senator Cornyn at November conference and discuss progress on the project. Part II of trip: to meet with subject matter experts
Start/End Dates: 16–20 August 2007
Location: Part I: Dallas, TX and Crawford TX. Part II: Arlington, VA, Richmond, VA
Attendees: Part I: Jeff Addicott, John Cornyn; Part II: Manuel Supervielle, Tony Booth
Presentations Made: None
32. Meeting Name: Meeting with the Consulate General of Israel
Purpose: Meeting with the Consulate General of Israel in Houston, Texas, to discuss the international portion of the project
Start/End Dates: 3 August 2007
Location: Houston, TX
Attendees: Jeffrey Addicott and Consulate General of Israel
Presentations Made: N/A
33. Meeting Name: Conference Planning Meeting
Purpose: To discuss with various speakers the mechanics for the November 2007 subject matter expert conference
Start/End Dates: 14–15 October 2007

- Location: Capitol Hill, Reporters Committee for the Freedom of the Press (RCFP) office in DC
- Attendees: Jeffrey Addicott, Matthew Johnson (Senator Cornyn's office); Rick Blum (RCFP)
- Presentations Made: No formal presentation; spoke on the structure planning for conference
-
34. Meeting Name: Conference Planning Meeting
- Purpose: To meet subject matter experts and plan sessions for November conference to be held in DC
- Start/End Dates: 30–31 October 2007
- Location: U.S. Southern Command, Miami, FL
- Attendees: Jeffrey Addicott, Alfred Valenzuela, Nanette Derenzi, Jorge Silvera, Enrique Arroyo, James Stavridis
- Presentations Made: No formal presentations, spoke on port security issues as related to open government access to information
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35. Meeting Name: Meeting with Various Russian Subject Matters Experts
- Purpose: To gain input from foreign experts on their approach to open government issues for our international segment of study
- Start/End Dates: 4–8 November 2007
- Location: Various government offices in St. Petersburg, Russia
- Attendees: Jeff Addicott; Eugene Lyakhov, Peter Rovinovich, Ivan Kartov
- Presentations Made: U.S. approach to open government issues to People to People Russian experts

36. Meeting Name: Open Government International Conference and FBI Academy Presentation
- Purpose: To conduct the grant's primary open government international conference State Open Government Law and Practice in a Post-/11 World: Legal and Policy Analysis
- Start/End Dates: 14–19 November 2007
- Location: National Press Club, Washington, DC. and FBI Academy
- Attendees: See appendix C
- Presentations Made: Subject Matter Experts presented white papers regarding their specific topic/contribution to the State Open Government Law and Practice project and publications
37. Meeting Name: After Action Report to Selected Members of Congress
- Purpose: To discuss with selected members of Congress and their staff, the results of the State Open Government Study
- Start/End Dates: 14–15 January 2008
- Location: Capitol Hill, Washington, DC
- Attendees: Staff of Senators McCain and Cornyn and Congressmen Reyes and McCaul
- Presentations Made: No formal presentation; spoke on the subject topic
38. Meeting Name: Meeting of Selected Experts
- Purpose: To discuss with selected speakers the feasibility of developing a consensus to create a model State non-release statute
- Start/End Dates: 5–6 March 2008
- Location: Marriott Rivercenter, San Antonio, Texas
- Attendees: Jeffrey Addicott, Joe Weiss, Jody Westby, Maeve Dion
- Presentations Made: No formal presentation; spoke on the subject topic

ABOUT THE AUTHORS

Appendix B

The complete list of the primary contributors and their associated bios is attached at Appendix B. While a great number of research assistants and consultants conducted many hours of research to make this study a success, 21 subject matter experts wrote the materials related to the published materials.

Jeffrey F. Addicott

Professor Jeffrey F. Addicott is a Distinguished Professor of Law and the Director of the Center for Terrorism Law at St. Mary's University School of Law, San Antonio, Texas. An active duty Army officer in the Judge Advocate General's Corps for twenty years (he retired in 2000 at the rank of Lieutenant Colonel), Professor Addicott spent a quarter of his career as a senior legal advisor to the United States Army's Special Forces. As an internationally recognized authority on national security law, terrorism law and human rights law, Professor Addicott not only lectures and participates in professional and academic organizations both in the United States and abroad, but he is also a frequent contributor to national and international news shows to include FOX News Channel and MSNBC. Professor Addicott is a prolific author, publishing over twenty books, articles, and monographs on a variety of legal topics. Addicott's most recent book (2007) is entitled: *Terrorism Law: Cases, Materials, Comments*, 4th edition.

Among his many contributions to the field, Professor Addicott pioneered the teaching of law of war and human rights courses to the militaries of numerous nascent democracies in Eastern Europe and Latin America. For these efforts he was awarded the Legion of Merit, named the Army Judge Advocate of the year, and honored as a co-recipient of the American Bar Association's Hodson award. Addicott has served in senior legal positions in Germany, Korea, Panama, and throughout the United States. Professor Addicott holds a Doctor of Juridical Science (S.J.D.) and Master of Laws (LL.M.) from the University of Virginia School of Law. He also received a Master of Laws (LL.M.) from the Army Judge Advocate General's School and a Juris Doctor (J.D.) from the University of Alabama School of Law. Apart from teaching a variety of courses at the law school, Professor Addicott served as the Associate Dean for Administration at St. Mary's University School of Law (2006-2007).

Paul D. Barkhurst

Paul Barkhurst has extensive litigation experience in business and real estate disputes. He has developed a special concentration in the area of eminent domain, representing governmental entities and private parties in numerous such lawsuits. Mr. Barkhurst also represents governmental entities in construction disputes, and has represented contractors and subcontractors in private disputes. He also has extensive experience handling complex business dissolution and injunction cases. Mr. Barkhurst began his legal career as a United States Air Force Judge Advocate General. As a JAG Captain, he prosecuted and defended numerous courts-martial trials involving felony level offenses. He completed his military career as a Civil Litigation Attorney in Washington, D.C., representing the Air Force in federal courts throughout the country.

Richard Blum

Rick Blum is the coordinator of the Sunshine in Government Initiative, a coalition of media groups committed to promoting policies that ensure the government is accessible, accountable and open. Mr. Blum has spent the past decade in Washington advocating for the public's right to know. Prior to joining the Sunshine in Government Initiative in April 2006, Rick served as director of OpenTheGovernment.org, a broad-based national campaign to fight government secrecy. He holds a Master's Degree from Indiana University, where his studies focused on democratization efforts in Russia, and a Bachelor's degree from the University of California, Berkeley.

Jarret Brachman

Jarret Brachman is a terrorism specialist. He serves as the Director of Research in the Combating Terrorism Center at the United States Military Academy and is an Adjunct Professor at New York University's Center for Global Affairs. Dr. Brachman has testified on terrorism related issues before the U.S. Congress, the British House of Lords and routinely advises senior military, law enforcement and intelligence officials on counterterrorism strategy. He was recently quoted by al-Qa`ida leader, Ayman al-Zawahiri.

Vanessa Brochot

Vanessa Brochot is currently completing her PhD with a focus on “terrorism and international law.” Ms. Brochot teaches French constitutional law at the University of Rouen and runs the Les Annales de Droit judicial review. Ms. Brochot has an MBA in arms control and disarmament from the University of Marne la vallée (France), a Masters degree in International Relations (D.S.R.) from the Institute of Higher Studies in International Relations in Paris (I.L.E.R.I.), and has held internships in the Ministry of Defense and the Legal Affairs Office of the French Embassy in Lima, Peru with the diplomatic chancellery as the diplomat’s personal assistant.

Thomas Collins

Thomas Collins is the current Security Manager for the fourth largest water utility in the United States. His prior experiences include the creation of the first local Environmental Criminal Investigation Section for the Houston Police Department in the state of Texas.

James W. Conrad, Jr.

Jamie Conrad is the principal of Conrad Law & Policy Counsel, where he provides legislative and regulatory representation to businesses, associations and coalitions in the areas of homeland security, environmental law and science policy information quality. He has spent the past 22 years practicing law in Washington, DC, most recently at the American Chemistry Council and previously at Davis, Graham & Stubbs and Cleary Gottlieb Steen & Hamilton. He is the Secretary of the ABA's Section of Administrative Law & Regulatory Practice and editor of the Environmental Science Deskbook.

Ema Garcia

Ema Garcia is an associate attorney at a water law firm in Denver, Colorado. Ms. Garcia holds a Juris Doctorate from St. Mary’s University School of Law, a Masters of Business Administration from St. Mary’s University Greehey School of Business, and a Bachelor’s

degree from the University of Colorado at Denver in political science. Ema Garcia also serves as a consultant for the Center for Terrorism Law where she has conducted research about bioterrorism, cyberterrorism, the freedom of information, and other various issues relating to terrorism.

Charles Davis

Charles N. Davis is executive director of the National Freedom of Information Coalition and an associate professor at the University of Missouri School of Journalism. Mr. Davis worked for nearly ten years as a journalist, working for newspapers, magazines and a news service in Georgia and Florida. As a national correspondent for Lafferty Publications, a Dublin-based news wire service for UK publications, Mr. Davis reported from the US on banking, international finance and regulatory issues for seven years before leaving full-time journalism to seek a doctorate in mass communication from the University of Florida. Charles Davis has conducted research on dozens of freedom of information issues involving electronic access, privatization and enforcement of access laws. His 1998 study of prison access commissioned by SPJ took a year to research and earned Davis a Sunshine Award.

Maeve Dion

In early 2004, Maeve Dion joined the CIP Program, where her work focuses on legal, economic, and policy issues relating to critical infrastructure protection. Her primary focus is on technology and information infrastructure. Maeve holds a J.D. *cum laude* from George Mason University School of Law, and an honors B.A. in political science from Eckerd College.

Stephen Gidiere

Stephen Gidiere III is a partner with Balch & Bingham LLP, a southeastern regional law firm with offices in Alabama, Georgia, Mississippi, and Washington, D.C. His practice encompasses a wide range of environmental, resources, energy, and administrative law matters, with a focus on government information law. He is author of the book *The Federal Information Manual* (2006) published by the American Bar Association.

Harry Hammit

Harry A. Hammitt is editor/publisher of *Access Reports*, a biweekly newsletter on the Freedom of Information Act, information policy and informational privacy issues. He is also the primary editor of *Litigation Under the Federal Open Government Laws* and the author of a series of white papers for the National Freedom of Information Coalition.

Joseph R. Larsen

Joseph Larsen is a 1990 joint JD/MBA graduate from the University of Houston Law Center and Business School, graduating in the top 10% of his law school class. Mr. Larsen, who is licensed in both Texas and Louisiana, was an editor on the University of Houston Law Review, a member of the Order of the Coif, and an associate in trial practice with Liddell, Sapp, Zivley, Hill & LaBoon, L.L.P., before joining Ogden, Gibson, White, Broocks & Longoria in 1994. His practice focus is media and access law and general and commercial litigation. He is a board member of the Freedom of Information Foundation of Texas.

Barbara Petersen

A graduate of the University of Missouri-Columbia and Florida State University College of Law, Barbara A. Petersen is president of the Florida First Amendment Foundation. Before taking her current position in 1995, Petersen was staff attorney for the Joint Committee on Information Technology Resources of the Florida Legislature, where she worked exclusively on public records legislation and issues. A passionate advocate of the public's right to oversee its government, Petersen is the author of numerous reports and articles on open government issues. She currently serves as president of the National Freedom of Information Coalition and was recently appointed chair of Florida's Commission on Open Government Reform.

Monica Schoch-Spana

Monica Schoch-Spana, a medical anthropologist, is Senior Associate with the Center for Biosecurity of the University of Pittsburgh Medical Center (UPMC), Assistant Professor in the School of Medicine Division of Infectious Diseases, and investigator with the National Center for the Study of Terrorism and Responses to Terrorism. Since 1998, Dr. Schoch-Spana has led research, education, and advocacy efforts to encourage greater consideration by authorities of the general public's capacity to confront bioattacks and large-scale epidemics constructively. Her national advisory roles include serving on the Steering Committee of the Disaster Roundtable of the National Research Council (NRC) and with the NRC Committees on "Educational Paradigms for Homeland Security" and "Standards and Policies for Decontaminating Public Facilities Affected by Exposure to Harmful Biological Agents: How Clean is Safe?" Schoch-Spana received her PhD in cultural anthropology from The Johns Hopkins University.

Ari Schwartz

Ari Schwartz is the Deputy Director of the Center for Democracy and Technology (CDT). Schwartz's work focuses on increasing individual control over personal and public information. He promotes privacy protections in the digital age and expanding access to government information via the Internet. He regularly testifies before Congress and Executive Branch Agencies on these issues.

Joe Weiss

Joe Weiss is an industry expert on control systems and electronic security of control systems, with more than 30 years of experience in the energy industry. Mr. Weiss serves as a member of numerous organizations related to control system security. These include the North American Electric Reliability Council (NERC) Critical Infrastructure Protection Committee (CIPC), the International Electrotechnical Commission (IEC) Technical Committee (TC) 57 Working Group 15 - Data and Communication Security, the Process Controls Security Requirements Forum, CIGRÉ Joint Working Group D2/B3/C2 01- Security for Information Systems and Intranets in Electric Power Systems, and other industry working groups. He serves as the Task Force Lead for review of information security impacts on IEEE standards. He is also a Director on ISA's Standards and Practices Board.

Richard Weitz

Richard Weitz is a Senior Fellow and Director, Program Management at Hudson Institute. He analyzes mid- and long-term national and international political-military issues, including by employing scenario-based planning. His current areas of research include defense reform, counterterrorism, homeland security, and U.S. policies towards Europe, the former Soviet Union, Asia, and the Middle East. He also coordinates Hudson events and the Institute's intern program.

Pete Weitzel

Pete Weitzel is the freedom of information coordinator for the Coalition of Journalists for Open Government, based in Washington, D.C. He is a former managing editor of the Miami Herald, was the founder and first president of the Florida First Amendment Foundation and a co-founder and president of the National Freedom of Information Coalition. He has taught at the Poynter Institute for Media Studies, University of North Carolina Journalism School and Duke University Law School.

Jody Westby

Global Cyber Risk CEO, Jody Westby, brings a seasoned, multidisciplinary perspective to the many issues facing businesses and governments today in the areas of privacy, information security, outsourcing/offshoring risks, cybercrime, and IT business risk management. Drawing upon more than twenty years of technical, legal, policy, and business experience, she regularly consults with governments, private sector executives, and operational personnel on the development of enterprise security programs that dovetail the technical, legal, operational, and managerial considerations.

Institute of Terrorism Research and Response

The staff of the Institute of Terrorism Research and Response have broad-based military, security, and law enforcement experience, including significant experience in dealing with security issues involving municipal facilities, infrastructure venues, military installations, and public and private facilities in an environment of terrorist threats. Areas of competence at ITRR include: suicide bomber countermeasure and response; kidnapping prevention; VIP security planning; research and intelligence collection and analysis; threat and vulnerability assessments; security systems design; security management; security program plan development; crime prevention through environmental design (CPTED); knowledge of international and domestic terrorist techniques; OpSec Program Development; security assessments; integration of the human factor into the security system; anti-terrorist protective design and countermeasures; counter surveillance measures; knowledge of military demolitions techniques; special events planning; and transportation security.

Appendix C

State Open Government Law and Practice in a Post-9/11 World

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Appendix D

Selected Essays on State Open Government Law and Practice in a Post-9/11 World

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